

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 617

Introduced by Kristensen, 37

Read first time January 19, 1999

Committee: Judiciary

A BILL

1 FOR AN ACT relating to state district attorneys; to amend sections
2 23-1201, 23-1202, 23-1206, 23-1206.01, 23-1212, 23-1216,
3 23-1217, 23-1218, 23-1219, 23-1220, 23-1222, and 23-1223,
4 Reissue Revised Statutes of Nebraska; to create state
5 district attorney offices, prosecutorial districts, and
6 state district attorney nominating commissions; to
7 provide for commission membership, the selection and
8 appointment of state district attorneys, public hearings,
9 and powers and duties; to provide for the filling of
10 vacancies; to create a fund; to create the office of
11 State District Attorney Administrator; to provide powers
12 and duties; to define and redefine terms; to create the
13 Nebraska State District Attorney Standards Advisory
14 Council; to change duties of the Nebraska Commission on
15 Law Enforcement and Criminal Justice; to eliminate
16 provisions relating to certain powers and duties of
17 county attorneys; to harmonize provisions; to provide an

1 operative date; and to repeal the original sections.

2 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) On and after the operative date of this
2 act, there shall be established the office of state district
3 attorney, whose title and style of office shall be District
4 Attorney of the (number) Prosecutorial District, and there shall be
5 established a state district attorney in each district as created
6 in subdivision (2) of this section. The state district attorney
7 shall be an executive officer of the prosecutorial district in
8 which he or she is appointed and shall constitute a separate entity
9 of local government for administrative purposes. The state
10 district attorney shall not be deemed an officer of any county.
11 Before entering upon the duties of his or her office, each state
12 district attorney and any deputy state district attorneys shall
13 take the oath of office required by law for public officials and
14 shall execute a good and sufficient surety bond against his or her
15 performance in office pursuant to sections 33 to 36 of this act.

16 (2) The following prosecutorial districts are hereby
17 established:

18 (a) The First Prosecutorial District shall contain the
19 counties of Saline, Jefferson, Gage, Thayer, Johnson, Pawnee,
20 Nemaha, Fillmore, and Richardson;

21 (b) The Second Prosecutorial District shall contain the
22 counties of Sarpy, Cass, and Otoe;

23 (c) The Third Prosecutorial District shall contain the
24 county of Lancaster;

25 (d) The Fourth Prosecutorial District shall contain the
26 county of Douglas;

27 (e) The Fifth Prosecutorial District shall contain the
28 counties of Merrick, Platte, Colfax, Boone, Nance, Hamilton, Polk,

1 York, Butler, Seward, and Saunders;

2 (f) The Sixth Prosecutorial District shall contain the
3 counties of Dixon, Dakota, Cedar, Burt, Thurston, Dodge, and
4 Washington;

5 (g) The Seventh Prosecutorial District shall contain the
6 counties of Knox, Cuming, Antelope, Pierce, Wayne, Madison, and
7 Stanton;

8 (h) The Eighth Prosecutorial District shall contain the
9 counties of Cherry, Keya Paha, Brown, Rock, Blaine, Loup, Custer,
10 Boyd, Holt, Garfield, Wheeler, Valley, Greeley, Sherman, and
11 Howard;

12 (i) The Ninth Prosecutorial District shall contain the
13 counties of Buffalo and Hall;

14 (j) The Tenth Prosecutorial District shall contain the
15 counties of Adams, Clay, Phelps, Kearney, Harlan, Franklin,
16 Webster, and Nuckolls;

17 (k) The Eleventh Prosecutorial District shall contain the
18 counties of Grant, Hooker, Thomas, Arthur, McPherson, Logan, Keith,
19 Perkins, Lincoln, Dawson, Chase, Hayes, Frontier, Gosper, Dundy,
20 Hitchcock, Red Willow, and Furnas; and

21 (l) The Twelfth Prosecutorial District shall contain the
22 counties of Sioux, Dawes, Box Butte, Sheridan, Scotts Bluff,
23 Morrill, Garden, Banner, Kimball, Cheyenne, and Deuel.

24 Sec. 2. The state district attorney in each of the
25 prosecutorial districts shall be appointed by the Governor from
26 among candidates nominated by a state district attorney nominating
27 commission in each district. Each state district attorney
28 nominating commission shall consist of nine members:

1 (1) One shall be a judge of the Supreme Court who shall
2 be designated by the Governor and shall act as the chairperson, but
3 shall not be entitled to vote;

4 (2) Four shall be members of the Nebraska State Bar
5 Association who reside within the prosecutorial district and who
6 were designated by bar members in that prosecutorial district; and

7 (3) Four shall be citizens, not admitted to the practice
8 of law before the courts of this state, appointed by the Governor
9 from among the residents of the prosecutorial district.

10 Not more than four voting members of each commission
11 shall be of the same political party. Except for the judge of the
12 Supreme Court, each member of a commission shall be a resident of
13 the prosecutorial district served by such commission, except as
14 provided in subdivision (2) of section 4 of this act. A judge of
15 the Supreme Court may serve on more than one commission.

16 Sec. 3. (1) Within thirty days after the operative date
17 of this act, the Governor shall appoint for each of the state
18 district attorney nominating commissions a judge of the Supreme
19 Court to serve from the date of his or her appointment until
20 January 1, 2002.

21 (2) Within thirty days after the operative date of this
22 act, the Governor shall appoint for each of the commissions four
23 citizen members, with not more than two members from the same
24 political party, two to be designated to serve from the date of his
25 or her appointment until January 1, 2002, and two to be designated
26 to serve from the date of his or appointment until January 1, 2004.

27 (3) Within sixty days after the operative date of this
28 act, the members of the bar residing in each prosecutorial district

1 shall commence to nominate and select from their number in the
2 manner prescribed in section 4 of this act, four lawyer members to
3 serve on the commission of that prosecutorial district, with not
4 more than two members from the same political party, two to be
5 designated to serve from the date of his or her appointment until
6 January 1, 2002, and two to be designated to serve from the date of
7 his or her appointment until January 1, 2004.

8 (4) As the term prescribed for a member of a commission
9 initially appointed or selected expires, the term of office of each
10 successor member shall be for a period of four years. The Governor
11 shall appoint all successor members of each commission who are
12 judges of the Supreme Court and citizen members. The lawyers
13 residing in the prosecutorial district shall select all successor
14 members of such prosecutorial district's commission in the manner
15 prescribed in section 4 of this act.

16 (5) No member of any commission, except for judges of the
17 Supreme Court, shall serve more than a total of eight consecutive
18 years as a member of a commission, and if such member has served
19 for more than six consecutive years as a member of such commission,
20 he or she shall not be eligible for reelection or reappointment.

21 Sec. 4. (1) The lawyer members of any state district
22 attorney nominating commission shall be members of the Nebraska
23 State Bar Association and shall reside within the district served
24 by the commission except as provided in subsection (2) of this
25 section. Not more than two lawyer members of each commission shall
26 be registered members of the same political party or category.
27 Nominations for lawyer members of each commission shall be
28 solicited in writing by the Clerk of the Supreme Court from all the

1 lawyers of the prosecutorial district after the operative date of
2 this act and before September 1 of each even-numbered year.
3 Nominations for lawyer members shall be made in writing and filed
4 in the office of the Clerk of the Supreme Court within thirty days
5 after the date upon which notice is sent by the clerk following the
6 operative date of this act or on or before October 1 of each
7 even-numbered year. Each nomination shall be accompanied by a
8 written consent of the nominee to serve as a member of the
9 commission if elected. The nominations shall be solicited and
10 distributed on the ballot by the Clerk of the Supreme Court from
11 the legally recognized political parties and in such manner as will
12 permit the final selection to be made within the required political
13 party. At least two qualified lawyers shall be nominated for each
14 position.

15 (2) If insufficient nominations are made to provide two
16 candidates from the permissible political parties, the Executive
17 Council of the Nebraska State Bar Association, within ten days
18 after the last day for filing nominations, shall nominate
19 additional candidates for the position so that there shall be two
20 qualified candidates for each position. Such candidates need not
21 reside in the prosecutorial district served by the commission.

22 (3) The Clerk of the Supreme Court shall mail a ballot
23 with the names of each nominee to each member of the Nebraska State
24 Bar Association residing in the prosecutorial district, designating
25 a date at least ten days and not more than fourteen days after the
26 date of such mailing when returned ballots will be opened and
27 counted. The ballots returned shall be counted by a board
28 consisting of the Clerk of the Supreme Court, the Secretary of

1 State, and the Attorney General or by alternates designated by any
2 of them to serve in his or her place. The Clerk of the Supreme
3 Court shall ensure that the election is so conducted as to maintain
4 the secrecy of the ballot and the validity of the results. The
5 candidate or candidates of the required political party receiving
6 the highest number of votes shall be considered as having been
7 elected to the commission. The candidate or candidates of the
8 required political party receiving the next highest number of votes
9 shall be considered as having been elected as an alternate member
10 of the commission and shall serve as a member of the commission in
11 the event of a lawyer vacancy on the commission created either by
12 resignation or disqualification. In the case of a resignation,
13 such alternate member shall serve as a member of the commission
14 until the term of office of his or her predecessor expires.

15 (4) In any election when more than one lawyer member of a
16 commission is to be elected, the nominees shall be submitted
17 without designation of the term. Each voter shall be instructed to
18 vote for as many nominees as there are vacancies to be filled. The
19 candidate receiving the highest number of votes shall be considered
20 as having been elected for the longest term. The candidate
21 receiving the next highest number of votes shall be deemed to have
22 been elected for the next to the longest term, and if an alternate
23 member is to be elected, the candidate receiving the third highest
24 number of votes shall be deemed elected as the alternate member.
25 In the case of a tie the determination shall be made by lot by the
26 counting board.

27 (5) Upon the selection of any lawyer member or alternate
28 lawyer member of any commission, the Clerk of the Supreme Court

1 shall promptly certify his or her selection to the Governor and the
2 Secretary of State.

3 Sec. 5. The judge of the Supreme Court serving on each
4 state district attorney nominating commission shall be the
5 chairperson of the commission and shall preside at all of its
6 meetings, but shall not be entitled to vote. In selecting or
7 rejecting nominees for state district attorney in the district, the
8 members of the commission shall vote by oral roll call vote. Each
9 candidate shall receive a majority vote of the voting members of
10 the commission to have his or her name submitted to the Governor
11 for consideration for appointment.

12 Sec. 6. (1) For purposes of sections 1 to 51 of this
13 act, members and prospective members of state district attorney
14 nominating commissions who are registered as independent voters
15 shall be considered to be members of the same political party.

16 (2) Removal from the State of Nebraska or a change in
17 party registration shall automatically terminate the tenure of any
18 member of a commission.

19 Sec. 7. All voting members of each state district
20 attorney nominating commission, before they enter upon their
21 official duties, shall take the following oath or affirmation: I
22 do solemnly swear (or affirm) that I will faithfully discharge my
23 duties as a member of the State District Attorney Nominating
24 Commission for the (number) District, that I will neither accept
25 nor receive, directly or indirectly, any money or other valuable
26 thing or any promise of office or assistance from any corporation,
27 company, or person, for any vote or influence I may give or
28 withhold in connection with the nomination of any person to be the

1 state district attorney for this district, that I will, as
2 necessary or expedient, encourage qualified candidates to accept
3 the office of state district attorney or nomination for such
4 office, and that I will vote to nominate for such office only
5 candidates I believe are sufficiently qualified to serve
6 appropriately. Such oath shall be administered by the judge of the
7 Supreme Court serving as chairperson of the commission to which the
8 oathmaker is appointed.

9 Sec. 8. On or before September 1 of each year, the Clerk
10 of the Supreme Court shall determine if any vacancies exist on any
11 state district attorney nominating commission, and shall report
12 the status of the membership of each commission to the Governor.
13 Vacancies relating to any members of the commissions appointed by
14 the Governor shall be filled promptly by the Governor for the
15 unexpired term. Vacancies of lawyer members of the commission for
16 which alternates have not been appointed shall be filled promptly
17 by a special election for the expired term, conducted by the Clerk
18 of the Supreme Court in the manner applicable to the regular
19 election of lawyer members of the commission.

20 Sec. 9. (1) The process set forth in this section for
21 the appointment of an individual to the office of state district
22 attorney in a district shall be followed in the case of initial
23 appointment following the operative date of this act and in the
24 event of a vacancy in such office due to the death, disability,
25 incapacity, removal, resignation, or retirement of an incumbent to
26 that office.

27 (2) For the initial appointment or upon the determination
28 that a vacancy in the office of state district attorney exists in a

1 prosecutorial district, the Clerk of the Supreme Court shall
2 contact the chairperson of the commission in such prosecutorial
3 district and shall ascertain from him or her a time and place for
4 the first meeting of such state district attorney nominating
5 commission which shall be a public hearing. The first public
6 hearing shall be held within sixty days after the date upon which
7 the chairperson of the commission is informed of the vacancy. The
8 chairperson shall thereupon notify each commission member in
9 writing of the time and place of the public hearing and shall at
10 once cause appropriate notice to be published by various news media
11 of the time and place of the public hearing of the commission and
12 of the interest of the commission in receiving information relating
13 to qualified candidates for the state district attorney vacancy.
14 Notice shall at least be published in a newspaper or in newspapers
15 of general circulation in the prosecutorial district for thirty
16 days and shall contain, at a minimum, the name of the office and
17 the length of the term or unexpired term. Any lawyer meeting the
18 statutory requirements to serve as a state district attorney and
19 who is interested in being nominated and appointed to such office
20 shall signify his or her interest by filing the appropriate
21 application with the commission at least twenty-one days prior to
22 the public hearing. At least ten days prior to the public hearing,
23 the chairperson shall release to the public the names of all the
24 lawyers who applied for the office of state district attorney. Any
25 member of the public shall be entitled to attend the public hearing
26 to express, either orally or in writing, his or her views
27 concerning candidates for the office.

28 (3) After the public hearing, the commission shall hold

1 such additional private or confidential meetings as it determines
2 to be necessary. Additional information may be submitted in
3 writing to the commission at any time prior to its selection of
4 qualified candidates to fill the vacancy. The commission shall
5 make such independent investigations and inquiries as it considers
6 necessary or expedient to determine the qualifications of
7 candidates for the vacancy and shall take such action as it deems
8 necessary or expedient to encourage qualified candidates to apply
9 for the office of state district attorney or accept nomination for
10 such office.

11 (4) The commission may, before or after the hearing
12 provided for in subsection (2) of this section, institute a search
13 for additional candidates. If additional candidates are obtained,
14 the commission shall hold further public hearings in the same
15 manner as provided in such subsection.

16 (5) The names of not less than two qualified candidates
17 for the office of state district attorney in the district shall be
18 submitted by the commission to the Governor within ninety days
19 after the operative date of this act or the date upon which the
20 chairperson of the commission was informed of a vacancy if one
21 public hearing is held, or within one hundred twenty days of such
22 date if more than one public hearing is held. Any commission which
23 has for its consideration three or more candidates for a vacancy
24 shall nominate at least three candidates for consideration by the
25 Governor if the commission, in its discretion, finds them to be
26 sufficiently qualified to be nominated for initial appointment or
27 to fill the vacancy. In determining whether a candidate is
28 sufficiently qualified to be nominated, the commission shall

1 consider the candidate's knowledge of the law, experience in the
2 legal system, actual courtroom experience, prior experience in the
3 practice of criminal law, intellect, capacity for fairness,
4 probity, temperament, industry, and such other factors relating to
5 criminal prosecutorial quality as may appear justified.

6 Sec. 10. It shall be unlawful for any person to attempt
7 to influence any state district attorney nominating commission in
8 any manner and on any basis except by presenting facts and opinions
9 relevant to the qualifications for office of the proposed nominees
10 to an individual member of the commission or to the commission
11 acting as a body, at or prior to the time of the public hearing. A
12 violation of this section shall be considered obstructing
13 governmental operations pursuant to section 28-901 and shall be
14 punished pursuant to such section.

15 Sec. 11. There is hereby created the State District
16 Attorney Budget Fund. All funds collected by any state district
17 attorney or all of them shall be remitted to the State Treasurer
18 for credit to the State District Attorney Budget Fund. Money in
19 the State District Attorney Budget Fund shall be devoted to the
20 purposes set forth in sections 25, 26, and 27 of this act and shall
21 be paid out of such fund for those purposes by the State District
22 Attorney Administrator. Any money in the fund available for
23 investment shall be invested by the state investment officer
24 pursuant to the Nebraska Capital Expansion Act and the Nebraska
25 State Funds Investment Act.

26 Sec. 12. (1) There is hereby created the office of the
27 State District Attorney Administrator. The initial State District
28 Attorney Administrator shall be appointed by the Governor upon the

1 operative date of this act to serve until July 1, 2001. On and
2 after such date, the State District Attorney Administrator shall be
3 appointed by vote of a majority of the state district attorneys to
4 serve four year terms at their pleasure and until such time as a
5 successor is duly appointed in the same manner.

6 (2) The offices of the State District Attorney
7 Administrator shall be located in the seat of government and the
8 State District Attorney Administrator shall procure appropriate
9 office space with the costs thereof paid from the State District
10 Attorney Budget Fund.

11 (3) It shall be the responsibility of the State District
12 Attorney Administrator's office to provide centralized accounting
13 and budgeting services and support for the state district attorney
14 system, to assist in the efficient and effective operation of the
15 system, to provide staff support for the various state district
16 attorneys, to provide centralized administration of the total state
17 district attorney system, and to provide, at the discretion of the
18 state district attorneys voting as a body, specialized
19 investigative staff and support services to assist them in carrying
20 out their functions under sections 1 to 51 of this act.

21 (4) The State District Attorney Administrator shall be
22 allowed sufficient funds to ensure an adequate staff of assistants
23 to carry out the duties and responsibilities of his or her office
24 under this act. Sufficient funds shall be allowed for all office
25 expenses. Such funds shall be paid out of the State District
26 Attorneys Budget Fund.

27 (5) The Legislature shall appropriate sufficient funds to
28 the State District Attorney Budget Fund in aid of the State

1 District Attorney Administrator's office to permit its operation
2 through July 1, 2001. Thereafter, the annual budget of the State
3 District Attorney Administrator's office shall be set and approved
4 by a majority vote of all the state district attorneys.

5 Sec. 13. Within thirty days after the list of nominees
6 for a state district attorney vacancy has each presented to the
7 Governor by the state district attorney nominating commission, the
8 chairperson of the commission shall prepare and send to the State
9 District Attorney Administrator a report containing the following:

10 (1) The names of all candidates for the vacancy;

11 (2) Copies of all applications submitted by candidates;
12 and

13 (3) The names of the candidates formally nominated by the
14 commission for the vacancy.

15 Such report shall be available to the public and shall be
16 preserved by the State District Attorney Administrator for ten
17 years.

18 Sec. 14. All communications between members of a state
19 district attorney nominating commission or between any member or
20 members of a commission and any prospective nominee for the office
21 of state district attorney, and all other communications with
22 members of the commission, except those occurring at the public
23 hearing, shall be confidential and shall not be considered public
24 record. Additionally, all such communications, including those at
25 public hearings, shall be privileged from use in any legal action,
26 except one charging misconduct in office of a member of the
27 commission, one involving charges under the provisions of section
28 10 of this act, or one involving misconduct of an attorney, based

1 on such communication.

2 Sec. 15. The Supreme Court shall promulgate rules
3 regarding procedures to be followed in the nominating process,
4 including (1) the type of application to be filed, (2) the type of
5 presentation an applicant may make at the public hearing, (3)
6 factors, other than those specifically described in subsection (5)
7 of section 9 of this act, relating to criminal prosecutorial
8 qualities for commission members to consider in determining whether
9 a candidate is sufficiently qualified to be nominated, and (4) such
10 other rules as it feels will induce qualified lawyers to seek
11 office as a state district attorney and which will promote the true
12 spirit of the process as set forth in sections 1 to 51 of this act.

13 Sec. 16. The Governor shall, on or before sixty days
14 after the formal receipt of nominations from the state district
15 attorney nominating commission, appoint one of the nominees as the
16 state district attorney for that prosecutorial district. If no
17 appointment is made after sixty days, the commission, by majority
18 vote, shall appoint one of the nominees as the state district
19 attorney for that prosecutorial district.

20 Sec. 17. Any state district attorney who desires to
21 continue in office for an additional term shall indicate his or her
22 desire in this respect in writing filed with the Secretary of
23 State, on or before August 1 of the year immediately preceding the
24 expiration of his or her term in office, and shall request in
25 writing that the Secretary of State submit to the electorate of the
26 appropriate prosecutorial district the question of his or her right
27 to be retained in office for an additional term.

28 Sec. 18. Upon receipt of the information and request

1 within the time provided in section 17 of this act, the Secretary
2 of State shall cause the question of the state district attorney's
3 right to continue in office for an additional term to be submitted
4 to the appropriate electorate at the next general election, on the
5 nonpolitical ballot. The question shall be submitted in substance
6 as follows: "Shall State District Attorney (name) be retained in
7 office?YesNo."

8 Sec. 19. The election shall be conducted in the manner
9 and form provided for elections generally with respect to the
10 nonpolitical ballot and the results of the election shall be
11 certified in the same manner.

12 Sec. 20. If the majority of the registered voters voting
13 with regard to the question of retention at the election vote yes,
14 the state district attorney shall be retained in office for an
15 additional term. If the majority of the voters voting on the
16 question of retention at the election vote no, a vacancy in the
17 office shall occur at the end of the term of office of the state
18 district attorney.

19 Sec. 21. Unless the state district attorney files with
20 the Secretary of State within the time and in the manner provided
21 in section 17 of this act an indication of his or her desire to
22 continue in office for an additional term, a vacancy in the office
23 shall occur at the end of the term of office of the state district
24 attorney.

25 Sec. 22. The term of office of each state district
26 attorney shall be four years. The term of office of state district
27 attorney shall commence:

28 (1) On the operative date of this act, with respect to

1 all initial appointments;

2 (2) For all terms thereafter, on the first Thursday after
3 the first Tuesday in January next succeeding the election referred
4 to in sections 17 to 20 of this act; or

5 (3) If appointed to fill a vacancy in office other than
6 by reason of the expiration of a term, on the date of his or her
7 appointment by the Governor and for the remainder of the unexpired
8 term.

9 Sec. 23. A person shall not be eligible to hold the
10 office of state district attorney unless he or she shall have been
11 admitted to the practice of law in the courts of the State of
12 Nebraska for at least five years prior to the date upon which he or
13 she is to be appointed to such office, except that a person who has
14 been serving as county attorney, deputy county attorney, or deputy
15 state district attorney for at least three years prior to the date
16 upon which he or she is to be appointed shall be eligible to hold
17 such office.

18 Sec. 24. (1) The Supreme Court may remove any state
19 district attorney from office by a majority vote of its members
20 upon a complaint filed with the Supreme Court by the Attorney
21 General or the Counsel for Discipline of the Nebraska State Bar
22 Association.

23 (2) The complaint shall contain a short and plain
24 statement of fact setting forth the grounds upon which removal is
25 sought and a showing by clear and convincing evidence that such
26 grounds exist.

27 (3) Proceedings under this section shall be conducted in
28 accordance with the Nebraska rules of civil procedure and the rules

1 of evidence, except that (a) discovery procedures shall be used
2 only by order of the Supreme Court on motion for cause shown and
3 (b) the Supreme Court may modify any such rule or restrict its
4 application as is necessary or appropriate to expedite the
5 proceeding and insure that the Supreme Court is fully informed of
6 the relevant and material facts as practicable.

7 (4) If a majority of the Supreme Court finds, by clear
8 and convincing evidence, that the state district attorney has
9 violated a statute, is not performing the duties of his or her
10 office faithfully and efficiently, or that removal from office is
11 in the public interest, judgment to that effect shall be entered
12 and the respondent shall thereby be removed from office as state
13 district attorney.

14 (5) All proceedings under this section shall be conducted
15 in an expeditious manner.

16 Sec. 25. (1) Each state district attorney shall receive
17 an annual salary of seventy-five thousand dollars. State district
18 attorneys and their deputies shall receive their annual salaries
19 from the State District Attorney Budget Fund in monthly payments on
20 a date to be determined by the State District Attorney
21 Administrator and in a sum which, in a year aggregate, will most
22 nearly equal the annual salary.

23 (2) State district attorneys and chief deputy state
24 district attorneys shall serve full-time while in office and shall
25 not (a) appear as legal counsel in any civil or criminal matter
26 before any court or at any administrative hearing other than in
27 their capacity as state district attorney or deputy state district
28 attorney or (b) engage in the private practice of law, be a partner

1 or associate of any person engaged in the private practice of law,
2 or be a member or employee of a professional corporation or
3 association engaged in the private practice of law. A violation of
4 this subsection shall constitute malfeasance in office and upon
5 conviction shall result in a fine of not more than five hundred
6 dollars or not more than six months in a county jail, or both, and
7 in addition he or she shall be automatically vacated from office.

8 Sec. 26. (1) Each state district attorney shall appoint
9 at least one deputy state district attorney to be designated the
10 chief deputy state district attorney who shall devote his or her
11 full efforts to such office and shall serve at the pleasure of the
12 state district attorney. In the absence of the state district
13 attorney, the chief deputy state district attorney shall act in the
14 state district attorney's place and shall possess in such role the
15 full authority, duties, and responsibilities of the state district
16 attorney.

17 (2) The state district attorney may also appoint
18 additional full-time or part-time deputy state district attorneys
19 upon such terms and conditions as he or she may deem appropriate.
20 Except as provided in subsection (3) of this section, deputy state
21 district attorneys shall serve at the pleasure of the state
22 district attorney.

23 (3) The county attorney of each county within the
24 prosecutorial district served by a state district attorney shall
25 also serve as a deputy state district attorney.

26 (4) All deputy state district attorneys, other than
27 county attorneys, shall take the oath of office prescribed for the
28 state district attorney. All deputy state district attorneys shall

1 assist the state district attorney in the performance of the duties
2 of that office at the direction of the state district attorney,
3 including, but not limited to, the drawing of indictments, the
4 hearing of complaints before grand juries, and the preparation and
5 trial of criminal cases. When directed by the state district
6 attorney, a deputy state district attorney shall act as counsel for
7 the state in the trial of complaints before all of the courts of
8 this state, in administrative hearings, and in the prosecution of
9 appeals or actions before the Court of Appeals or the Supreme
10 Court.

11 (5) The compensation of deputy state district attorneys,
12 except that of county attorneys, shall be fixed by the state
13 district attorney for his or her prosecutorial district, except
14 that the salary of any deputy state district attorney shall not
15 exceed eighty-five percent of the salary of the state district
16 attorney. A county attorney serving as a deputy state district
17 attorney shall be paid by the county for which he or she serves as
18 county attorney and shall receive no additional salary solely by
19 reason of his or her service as a deputy state district attorney.
20 A violation of this subsection shall constitute malfeasance in
21 office and upon conviction shall result in a fine of not more than
22 five hundred dollars or not more than six months in a county jail,
23 or both, and in addition he or she shall be automatically vacated
24 from office.

25 Sec. 27. (1) Each state district attorney shall be
26 allowed sufficient funds to ensure the employment of an adequate
27 staff of deputies to screen, process, and investigate complaints,
28 to assist law enforcement agencies, to prepare for and conduct

1 trials, to prosecute appeals to appellate courts when necessary,
2 and to carry out all of the duties and responsibilities of the
3 office of state district attorney.

4 (2) Each state district attorney shall be allowed
5 sufficient funds for the payment of all office expenses, the
6 procurement of clerical assistance, and travel, including, but not
7 limited to, funds for the consultation and services of experts both
8 in and out of court, the rendition of prisoners, training of deputy
9 state district attorneys and other law enforcement officials, and
10 the procurement of reference books and treatises which may assist
11 the state district attorney and his or her staff in the prosecution
12 of criminal matters.

13 (3) Each state district attorney shall be provided with
14 suitable office space for the performance of the duties of his or
15 her office, including sufficient space for research and conferences
16 and meetings with law enforcement officers, witnesses,
17 complainants, legal counsels, and citizens. Such office space
18 shall be situated at a location convenient to the county courthouse
19 of the largest county in each prosecutorial district. Any
20 misappropriation of funds shall constitute malfeasance in office
21 and upon conviction shall result in a fine of not more than five
22 hundred dollars or not more than six months in a county jail, or
23 both, and in addition he or she shall be automatically vacated from
24 office.

25 Sec. 28. (1) By December 15 of each year, each state
26 district attorney shall, with the assistance of the State District
27 Attorney Administrator, prepare and submit to the State District
28 Attorney Administrator a proposed budget for his or her office to

1 cover the projected expenses and costs of such office for the
2 period from the next July 1 to the following June 30.

3 (2) The State District Attorney Administrator shall
4 compile a report containing the proposed budgets of all the state
5 district attorneys and the approved proposed budget of the State
6 District Attorney Administrator's office for the same period and
7 shall transmit the report to the Clerk of the Legislature not later
8 than January 15 of the following year.

9 (3) The Legislature shall review such report and hold a
10 public hearing on the same before the appropriate legislative
11 committee. The Legislature shall make any appropriate revisions or
12 amendments and shall, by resolution, approve a final budget for
13 each state district attorney and the State District Attorney
14 Administrator's office. The Clerk of the Legislature shall
15 transmit a copy of the final approved budgets and the resolution to
16 the State District Attorney Administrator and the State Treasurer.

17 (4) The Legislature may make such appropriations as it
18 deems appropriate to the State District Attorney Budget Fund to
19 assist in defraying the costs of the operations of the state
20 district attorneys and the State District Attorney Administrator's
21 office.

22 (5) The State District Attorney Administrator shall
23 certify to each county the amount it shall pay into the State
24 District Attorney Budget Fund. Each county shall pay a pro rata
25 share of the budget of the State District Attorney Administrator's
26 office, after subtracting out any amount appropriated for such
27 purpose by the Legislature, based upon the county's population as a
28 proportion of the total state population as determined by the most

1 recent federal decennial census. Each county shall pay a pro rata
2 share of the budget of the state district attorney in whose
3 prosecutorial district such county is located based upon the
4 county's population as a proportion of the total population of all
5 counties within the prosecutorial district as determined by the
6 most recent federal decennial census. If the Legislature
7 appropriates funds in aid of any or all state district attorneys,
8 such funds shall be subtracted from the share owed by each county
9 in a manner which the Legislature shall prescribe.

10 Sec. 29. (1) The state district attorney shall prosecute
11 all criminal violations of state law and certain civil matters as
12 prescribed. The county attorney shall prosecute and defend all
13 suits, applications, or motions arising in civil matters under the
14 laws of the state in which the county is interested or a party,
15 except that the state district attorney shall prosecute and defend
16 all matters involving juveniles.

17 (2) The Attorney General may direct a county attorney to
18 represent the state in any civil action in which the state is
19 interested or is a party. When such services require the
20 performance of duties which are in addition to the ordinary duties
21 of the county attorney, he or she shall receive a fee for his or
22 her services in addition to the salary received by such county
23 attorney (a) as the court shall order in any action involving court
24 appearance or (b) as the Attorney General shall authorize in other
25 matters. The fee shall be paid by the state.

26 (3) The county attorney shall appear, prosecute, and
27 defend all suits, applications, or motions which arise in civil
28 matters which involve the county and which may have been

1 transferred by change of venue from his or her county to any other
2 county in the state.

3 (4) A county attorney may appear on behalf of the state
4 before any judge and prosecute complaints made in behalf of the
5 state or before a separate juvenile court or court with juvenile
6 jurisdiction as a deputy state district attorney upon assignment
7 thereto by the state district attorney in whose prosecutorial
8 district his or her county is located.

9 Sec. 30. Any case involving the sexual or physical abuse
10 of children which is discovered by or reported to any law
11 enforcement agency or officer shall be immediately reported by the
12 agency or officer to the appropriate state district attorney. The
13 state district attorney shall be primarily responsible for
14 investigating any such offense and may designate by geographical
15 boundaries or otherwise a particular law enforcement agency to have
16 primary responsibility for any such investigation.

17 Sec. 31. In all cases of alleged sexual assault, gross
18 sexual misconduct, sexual or physical abuse of minors, or assault
19 when serious bodily injury has been inflicted, which are reported
20 to a law enforcement officer, the office of the state district
21 attorney having jurisdiction shall pay all expenses for any
22 physical examination of the victim when such examination is
23 conducted for the purpose of obtaining evidence for the
24 prosecution. The state district attorney shall not be liable for
25 the payment of any such charges, costs, or fees for an examination
26 until the state district attorney has received copies of all
27 reports and records pertaining to the examination, if the state
28 district attorney has requested such copies. No physician, nurse,

1 hospital, clinic, or other person attending a victim shall be
2 liable for damages or otherwise for providing reports or records,
3 copies of reports or records, or testimony pertaining to any
4 examination when the reports, records, copies, or testimony were
5 provided to a state district attorney, a law enforcement officer,
6 or a court for the purpose of prosecuting the alleged crime,
7 whether or not the reports, records, copies, or testimony were
8 provided with the authorization of the victim.

9 Sec. 32. (1) Except as provided in section 29-3602, it
10 shall be the duty of the state district attorney, when in
11 possession of sufficient evidence to warrant the belief that a
12 person is guilty and can be convicted of a felony or misdemeanor,
13 to prepare, sign, verify, and file the proper complaint against
14 such person and to appear in the several courts of the district and
15 prosecute the appropriate criminal proceeding on behalf of the
16 state. Prior to reaching a plea agreement with defense counsel,
17 the state district attorney shall consult with or make a good faith
18 effort to consult with the victim regarding the content of and
19 reasons for such plea agreement. The state district attorney shall
20 record such consultation or effort in his or her office file. The
21 state district attorney shall make a report on the tenth day of
22 each quarter to the county board of each county in the
23 prosecutorial district which shall show final disposition of all
24 criminal cases the previous quarter, criminal cases pending on the
25 last day of the previous quarter, and criminal cases appealed
26 during the previous quarter.

27 (2) It shall also be the duty of the state district
28 attorney to prosecute and defend certain civil matters as expressly

1 prescribed by law.

2 Sec. 33. When any state district attorney or any acting
3 officer who is appointed and gives bond as provided by section
4 11-201 in giving the bond required of him or her by law, shall
5 furnish a bond executed by a surety company, authorized by the laws
6 of this state to execute such bond, and such bond shall be approved
7 by the Risk Manager, and the premium for such bond paid out of the
8 State District Attorney Budget Fund. Any surety bond so executed
9 and approved shall contain a covenant to the effect that when the
10 stated term of the bond shall be reduced to a shorter term by
11 reason of the death, resignation, or removal from office of such
12 official for a cause not imposing liability on his or her bond, the
13 obligor shall refund to the State District Attorney Budget Fund the
14 unearned portion of the premium so paid for the term of the bond,
15 subject to a reasonable minimum premium charge.

16 Sec. 34. Whenever any deputy state district attorney or
17 other employee shall be required by law or the order of the Risk
18 Manager to supply bond, either (1) such deputy or employee shall
19 furnish a bond by a surety company, which bond shall be approved by
20 the Risk Manager may pay the premium for such bond, or (2) the Risk
21 Manager may arrange and pay for the writing of a blanket corporate
22 surety bond bonding all such employees of the state district
23 attorney.

24 Sec. 35. A deputy state district attorney in all
25 prosecutorial districts shall file a bond in the same manner and
26 for the same amount required of the state district attorney and be
27 removable at the pleasure of the state district attorney.

28 Sec. 36. In prosecutorial districts whose population is

1 more than two hundred thousand inhabitants, the deputy state
2 district attorneys, before entering upon the duties of their
3 offices, shall be required to give a bond for the faithful
4 performance of the duties of such office in an amount to be fixed
5 and approved by the judges of the district court.

6 Sec. 37. (1) In the absence, sickness, or disability of
7 the state district attorney and his or her deputies, or upon
8 request of the state district attorney for good cause, the district
9 court may appoint an attorney to act as state district attorney in
10 any investigation, appearance, or trial, by an order to be entered
11 upon the minutes of the district court.

12 (2) The state district attorney of any prosecutorial
13 district may, under the direction of the district court, procure
14 such assistance in any investigation or appearance or the trial of
15 any person charged with a crime which is a felony, as he or she may
16 deem necessary for the trial thereof.

17 (3) The hired attorney or assistant shall be allowed such
18 compensation for services as the district court shall determine, to
19 be paid by the State District Attorney Administrator out of the
20 State District Attorney Budget Fund. The hired attorney or
21 assistant shall be allowed compensation upon presenting to the
22 State District Attorney Budget Fund a certificate or letter from
23 the district judge before whom the cause was tried certifying that
24 services were rendered by the hired attorney or assistant and the
25 amount of compensation.

26 Sec. 38. (1) It shall be the duty of the state district
27 attorney, whenever he or she shall receive any money or other
28 property in his or her official capacity, to give to the person

1 paying or depositing such money or other property duplicate
2 receipts, one of which shall be filed by such person with the
3 county clerk.

4 (2) Whenever any such money is received by the state
5 district attorney, he or she shall carefully manage it and may,
6 when the money cannot immediately be paid out to its rightful
7 owner, deposit the money in interest-bearing accounts in insured
8 banking or savings institutions. Any interest accrued from such
9 deposit shall be remitted to the State Treasurer for credit to the
10 State District Attorney Budget Fund, except that when the funds so
11 deposited belonged to a deceased person whose personal
12 representative has not yet been appointed by a court of competent
13 jurisdiction, then the interest accruing on such money shall be
14 paid to the estate of such person after the appointment of a
15 personal representative and upon order of the court.

16 (3) Any property other than money which is received by
17 the state district attorney shall be held by him or her in
18 safekeeping until claimed by the rightful owner or, if there is a
19 dispute as to the ownership of such property, until ordered by a
20 court of competent jurisdiction to give possession of the property
21 to some person.

22 Sec. 39. Whenever the state district attorney is
23 required by the grand jury of any court sitting in his or her
24 prosecutorial district, it shall be his or her duty to attend for
25 the purpose of examining witnesses in their presence, to give them
26 advice in any legal matter, to issue subpoenas and other writs of
27 process, to bring in witnesses, and to draw up bills of indictment.
28 The state district attorney shall not be present with the grand

1 jury when an indictment is being considered and found by the grand
2 jury.

3 Sec. 40. In prosecutorial districts having a population
4 exceeding sixty thousand inhabitants, and not more than two hundred
5 thousand inhabitants, there may be spent under the direction and
6 control of the state district attorney a sum of money not exceeding
7 five thousand dollars in any one year, to be paid out of the State
8 District Attorney Budget Fund for the employment of a detective or
9 detectives, the same to be appointed by the state district attorney
10 at such rates of compensation per day as may be fixed by the state
11 district attorney, and such appointment may be revoked by him or
12 her at any time. In prosecutorial districts having a population
13 exceeding two hundred thousand inhabitants, there may be spent
14 under the direction and control of the state district attorney a
15 sum of money not exceeding three thousand dollars in any one year,
16 to be paid out of the State District Attorney Budget Fund for the
17 employment of a detective or detectives, the same to be appointed
18 by the state district attorney at such rates of compensation per
19 day as may be fixed by such officer, and such appointment may be
20 revoked by him or her at any time.

21 Sec. 41. (1) The state district attorney shall perform
22 all of the duties enjoined by law upon the county coroner and the
23 state district attorney shall be the ex officio county coroner for
24 the counties in his or her prosecutorial district. The state
25 district attorney shall receive no additional fees for the
26 performance of duties prescribed by statutes for county coroner but
27 shall be reimbursed for all actual necessary expenses incurred by
28 him or her in the performance of such duties with reimbursement for

1 mileage to be made at the rate of twenty-four and one-half cents
2 per mile for each mile actually and necessarily traveled by the
3 most direct route if the trip or trips are made by automobile, but
4 if travel by rail or bus is economical and practical, he or she
5 shall be allowed only the actual cost of rail or bus transportation
6 upon the presentation of his or her bill for the same accompanied
7 by a proper voucher to the county board or boards in his or her
8 prosecutorial district.

9 (2) The state district attorney may delegate to a county
10 sheriff, deputy county sheriff, or any other peace officer in his
11 or her prosecutorial district that part of the coroner's duties as
12 now prescribed by statute which relate to viewing dead bodies and
13 serving papers, except that in cases when there may be occasion to
14 serve papers upon a sheriff, the state district attorney may
15 delegate such duty to the appropriate county clerk.

16 Sec. 42. For purposes of sections 42 to 50 of this act,
17 unless the context otherwise requires:

18 (1) State district attorney shall mean the state district
19 attorney of a prosecutorial district in this state;

20 (2) Deputy state district attorney shall mean an attorney
21 employed by a state district attorney in this state for the purpose
22 of assisting the state district attorney in carrying out his or her
23 responsibilities regardless of whether such position is full time
24 or part time;

25 (3) Council shall mean the Nebraska State District
26 Attorney Standards Advisory Council;

27 (4) Attorney General shall mean the Nebraska Attorney
28 General;

1 (5) Commission shall mean the Nebraska Commission on Law
2 Enforcement and Criminal Justice; and

3 (6) Continuing legal education, including instruction
4 providing a working knowledge of electronic speed measurement
5 principles and instruction on the investigation and prosecution of
6 crimes against children, shall mean that type of legal education,
7 including instruction providing a working knowledge of electronic
8 speed measurement principles and instruction on the investigation
9 and prosecution of crimes against children, which has application
10 to and seeks to maintain and improve the skills of the state
11 district attorney and deputy state district attorney in carrying
12 out the responsibilities of his or her office or position.

13 Sec. 43. There is hereby created the Nebraska State
14 District Attorney Standards Advisory Council which shall consist of
15 seven members, four of whom shall be either a state district
16 attorney or deputy state district attorney, one member being a
17 professor of law, and two members being county commissioners or
18 supervisors. The members of such council shall be appointed by the
19 Governor. Of the state district attorneys or deputy state district
20 attorneys appointed to such council, one shall be from Douglas
21 County, one shall be from Lancaster County, and the remaining two
22 shall be appointed from the remainder of the state. Members of the
23 council shall serve a term of four years, except that of the
24 members first appointed one member shall serve a term of one year,
25 two members shall serve a term of two years, two members shall
26 serve a term of three years, and two members shall each serve a
27 term of four years. A member may be reappointed at the expiration
28 of his or her term. Any vacancy occurring other than by expiration

1 of a term shall be filled for the remainder of the unexpired term
2 in the same manner as the original appointment. The council shall
3 select one of its members as chairperson. The Governor shall make
4 the appointments under this section within ninety days after the
5 operative date of this act.

6 Members of the council shall have such membership
7 terminated if they cease to hold the office of state district
8 attorney, deputy state district attorney, or county commissioner or
9 supervisor. A member of the council may be removed from the
10 council for good cause upon written notice and upon an opportunity
11 to be heard before the Governor. After the hearing, the Governor
12 shall file in the office of the Secretary of State a complete
13 statement of the charges and the findings and disposition together
14 with a complete record of the proceedings.

15 Sec. 44. The council shall be responsible for
16 establishing the annual number of hours of continuing legal
17 education, including instruction providing a working knowledge of
18 electronic speed measurement principles and instruction on the
19 investigation and prosecution of crimes against children. The
20 council shall periodically review the required number of hours of
21 continuing legal education, including instruction providing a
22 working knowledge of electronic speed measurement principles and
23 instruction on the investigation and prosecution of crimes against
24 children. The council shall develop educational criteria, formats,
25 and program objectives to be used in the delivery of continuing
26 legal education, including instruction providing a working
27 knowledge of electronic speed measurement principles and
28 instruction on the investigation and prosecution of crimes against

1 children, for state district attorneys and deputy state district
2 attorneys, except that the annual number of hours spent in
3 continuing legal education, including instruction providing a
4 working knowledge of electronic speed measurement principles and
5 instruction on the investigation and prosecution of crimes against
6 children, shall not exceed thirty-six contact hours.

7 Sec. 45. Every state district attorney and deputy state
8 district attorney in this state shall annually undertake and
9 complete the required hours of continuing legal education,
10 including instruction providing a working knowledge of electronic
11 speed measurement principles and instruction on the investigation
12 and prosecution of crimes against children, as prescribed by the
13 council under section 44 of this act. Failure on the part of any
14 state district attorney or deputy state district attorney to
15 complete the required number of hours of continuing legal
16 education, including instruction providing a working knowledge of
17 electronic speed measurement principles and instruction on the
18 investigation and prosecution of crimes against children, may
19 subject such state district attorney or deputy state district
20 attorney to removal from office under section 48 of this act.

21 Sec. 46. The Nebraska Commission on Law Enforcement and
22 Criminal Justice, after consultation with the council, shall:

23 (1) Establish curricula for the implementation of a
24 mandatory continuing legal education program, including instruction
25 providing a working knowledge of electronic speed measurement
26 principles and instruction on the investigation and prosecution of
27 crimes against children, for state district attorneys and deputy
28 state district attorneys;

1 (2) Administer all programs of continuing legal
2 education, including instruction providing a working knowledge of
3 electronic speed measurement principles and instruction on the
4 investigation and prosecution of crimes against children, for state
5 district attorneys and deputy state district attorneys required
6 under sections 42 to 50 of this act;

7 (3) Evaluate the effectiveness of programs of continuing
8 legal education, including instruction providing a working
9 knowledge of electronic speed measurement principles and
10 instruction on the investigation and prosecution of crimes against
11 children, required under sections 42 to 50 of this act;

12 (4) Certify the number of hours of continuing legal
13 education, including instruction providing a working knowledge of
14 electronic speed measurement principles and instruction on the
15 investigation and prosecution of crimes against children, completed
16 by a state district attorney and deputy state district attorney as
17 required under sections 42 to 50 of this act and maintain all
18 records relating thereto;

19 (5) Report to the Attorney General the names of all state
20 district attorneys and deputy state district attorneys who have
21 failed to complete the number of hours of continuing legal
22 education, including instruction providing a working knowledge of
23 electronic speed measurement principles and instruction on the
24 investigation and prosecution of crimes against children, as
25 required under section 45 of this act;

26 (6) Establish tuition and fees for all programs of
27 continuing legal education, including instruction providing a
28 working knowledge of electronic speed measurement principles and

1 instruction on the investigation and prosecution of crimes against
2 children, as required under sections 42 to 50 of this act;

3 (7) Adopt and promulgate necessary rules and regulations
4 for the effective delivery of all programs of continuing legal
5 education, including instruction providing a working knowledge of
6 electronic speed measurement principles and instruction on the
7 investigation and prosecution of crimes against children, for state
8 district attorneys and deputy state district attorneys as required
9 under sections 42 to 50 of this act; and

10 (8) Do all things necessary to carry out the purpose of
11 training state district attorneys and deputy state district
12 attorneys as required by sections 42 to 50 of this act; and

13 (9) Receive and distribute appropriated funds to the
14 Nebraska County Attorneys Association to develop, administer, and
15 conduct continuing legal education seminars, prepare and publish
16 trial manuals and other publications, and take any other measure
17 that will enhance the investigation and prosecution of crime in
18 this state.

19 Sec. 47. When it comes to the attention of the
20 commission that a state district attorney or deputy state district
21 attorney has not fulfilled the required number of hours of annual
22 mandatory continuing legal education, including instruction
23 providing a working knowledge of electronic speed measurement
24 principles and instruction on the investigation and prosecution of
25 crimes against children, required by section 45 of this act, it
26 shall investigate such failure to comply in order to determine
27 whether or not such failure was willful or negligent. If the
28 commission determines that the failure to comply was willful or

1 negligent, it shall refer the matter to the Attorney General for
2 action under section 48 of this act. If the commission determines
3 that the failure to comply was not willful or negligent, it shall
4 permit the state district attorney or deputy state district
5 attorney to make up all outstanding hours of continuing legal
6 education, including instruction providing a working knowledge of
7 electronic speed measurement principles and instruction on the
8 investigation and prosecution of crimes against children. In doing
9 so, the commission shall establish a deadline by which such hours
10 must be undertaken and completed. In making up any outstanding
11 hours of continuing legal education, including instruction
12 providing a working knowledge of electronic speed measurement
13 principles and instruction on the investigation and prosecution of
14 crimes against children under this section, such hours shall be in
15 addition to those hours which are annually required under section
16 45 of this act.

17 Sec. 48. Upon being advised by the commission of a
18 failure on the part of a state district attorney or deputy state
19 district attorney to complete the number of hours of continuing
20 legal education, including instruction providing a working
21 knowledge of electronic speed measurement principles and
22 instruction on the investigation and prosecution of crimes against
23 children, required by section 45 of this act, the Attorney General
24 shall commence a civil action in the district court of the
25 prosecutorial district in which the state district attorney holds
26 office, or in the case of a deputy state district attorney in the
27 district court of the prosecutorial district in which he or she is
28 employed, seeking his or her removal from office or employment.

1 Such action shall be brought in the name of the prosecutorial
2 district. Such action shall be tried in the same manner as other
3 civil actions under Chapter 25, except that such action shall be
4 tried exclusively to the court without a jury.

5 Sec. 49. If a state district attorney is removed from
6 office as a result of the action authorized under section 48 of
7 this act, such office shall be declared vacant and the county board
8 shall fill the vacancy by appointment with a qualified candidate.
9 If a deputy state district attorney is removed from office as a
10 result of the action authorized under section 48 of this act, the
11 vacancy shall be filled pursuant to sections 8 and 9 of this act.

12 Sec. 50. Tuition, fees, and other expenses incurred by a
13 state district attorney or deputy state district attorney in
14 fulfilling the requirements of section 45 of this act shall be paid
15 by the county. Tuition, fees, and other expenses incurred by all
16 other persons who may attend such programs of continuing legal
17 education, including instruction providing a working knowledge of
18 electronic speed measurement principles and instruction on the
19 investigation and prosecution of crimes against children, shall be
20 the responsibility of the person attending.

21 Sec. 51. (1) In all cases when the state district
22 attorney has engaged in the courts of another prosecutorial
23 district in any suit, application, or motion, either civil or
24 criminal, in which the state or prosecutorial district is a party
25 interested, which has been transferred by change of venue from his
26 or her prosecutorial district to another prosecutorial district, he
27 or she shall be allowed his or her reasonable and necessary
28 traveling and hotel expenses while so engaged, in addition to his

1 or her regular salary.

2 (2) The expenses referred to in subsection (1) of this
3 section shall be paid to him or her upon the presentation of a bill
4 for the same, accompanied by proper vouchers, to the county board
5 or boards in his or her prosecutorial district. In computing
6 reasonable and necessary traveling expenses, the state district
7 attorney shall be allowed mileage at the rate of twenty-four and
8 one-half cents per mile for each mile actually and necessarily
9 traveled by the most direct route if the trip or trips are made by
10 automobile, but if travel by rail or bus is economical and
11 practical and if mileage expense may be reduced thereby, he or she
12 shall be allowed only the actual cost of rail or bus
13 transportation.

14 Sec. 52. Section 23-1201, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 23-1201. ~~(1) Except as provided in section 29-3602 and~~
17 ~~subdivision (2) of section 84-205, it shall be the duty of the~~
18 ~~county attorney, when in possession of sufficient evidence to~~
19 ~~warrant the belief that a person is guilty and can be convicted of~~
20 ~~a felony or misdemeanor, to prepare, sign, verify, and file the~~
21 ~~proper complaint against such person and to appear in the several~~
22 ~~courts of the county and prosecute the appropriate criminal~~
23 ~~proceeding on behalf of the state and county. Prior to reaching a~~
24 ~~plea agreement with defense counsel, the county attorney shall~~
25 ~~consult with or make a good faith effort to consult with the victim~~
26 ~~regarding the content of and reasons for such plea agreement. The~~
27 ~~county attorney shall record such consultation or effort in his or~~
28 ~~her office file.~~

1 ~~(2)~~ It shall be the duty of the county attorney to
2 prosecute or defend, on behalf of the state and county, all suits,
3 applications, or motions, ~~civil or criminal~~, that are civil in
4 nature arising under the laws of the state in which the state or
5 the county is a party or interested. The county attorney may be
6 directed by the Attorney General to represent the state in any
7 civil action or matter in which the state is interested or a party.
8 When such services require the performance of duties which are in
9 addition to the ordinary duties of the county attorney, he or she
10 shall receive such fee for his or her services, in addition to the
11 salary as county attorney, as (a) the court shall order in any
12 action involving court appearance or (b) the Attorney General shall
13 authorize in other matters, with the amount of such additional fee
14 to be paid by the state. It shall also be the duty of the county
15 attorney to appear and prosecute or defend on behalf of the state
16 and county all such civil suits, applications, or motions which may
17 have been transferred by change of venue from his or her county to
18 any other county in the state. Any counsel who may have been
19 assisting the county attorney in any such suits, applications, or
20 motions in his or her county may be allowed to assist in any other
21 county to which such cause has been removed. The county attorney
22 shall file the annual inventory statement with the county board of
23 county personal property in his or her possession as provided in
24 sections 23-346 to 23-350. It shall be the further duty of the
25 county attorney of each county, within three days from the calling
26 to his or her attention of any violation of the requirements of the
27 law concerning annual inventory statements from county officers, to
28 institute proceedings against such offending officer and in

1 addition thereto to prosecute the appropriate action to remove such
2 county officer from office. When it is the county attorney who is
3 charged with failure to comply with this section, the Attorney
4 General of Nebraska may bring the action. ~~It shall be the duty of~~
5 ~~the county attorney to make a report on the tenth day of each~~
6 ~~quarter to the county board which shall show final disposition of~~
7 ~~all criminal cases the previous quarter, criminal cases pending on~~
8 ~~the last day of the previous quarter, and criminal cases appealed~~
9 ~~during the past quarter. The county board in counties having less~~
10 ~~than two hundred thousand population may waive the duty to make~~
11 ~~such report.~~

12 Sec. 53. Section 23-1202, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 23-1202. Each county attorney shall appear on behalf of
15 the state before any magistrate, and ~~prosecute all complaints made~~
16 ~~in behalf of the state of which any magistrate shall have~~
17 ~~jurisdiction, and he shall appear before any magistrate and conduct~~
18 ~~any criminal examination which may be had before such magistrate,~~
19 ~~and shall also~~ prosecute all civil suits before ~~such~~ any magistrate
20 in which the state or county is a party or interested.

21 Sec. 54. Section 23-1206, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 23-1206. No ~~prosecuting~~ county attorney shall receive
24 any fee or reward from or on behalf of any ~~prosecutor or other~~
25 individual for services in any prosecution or business which it
26 shall be his or her official duty to attend. The county attorney
27 shall not ~~nor shall he~~ act or be concerned, as an attorney or
28 counsel for either party, other than for the business of the state

1 or county. ~~7 in any civil action depending upon the same state of~~
2 ~~facts upon which any criminal prosecution, commenced or prosecuted,~~
3 ~~shall depend, or depending upon the same state of facts,~~
4 ~~investigated by him, while acting as county coroner.~~

5 Sec. 55. Section 23-1206.01, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 23-1206.01. (1)(a) In counties having a population of
8 two hundred thousand inhabitants or more, the county attorney and
9 all deputy county attorneys shall devote their full time to the
10 legal work of such county and shall not engage in the private
11 practice of law directly or indirectly, nor shall any county
12 attorney, deputy county attorney, or employee of the county
13 attorney of any such county directly or indirectly refer any legal
14 matter or civil ~~or criminal~~ litigation to any lawyer or either
15 directly or indirectly recommend or suggest to any person the
16 employment of any particular lawyer or lawyers to counsel in,
17 conduct, defend, or prosecute any action, case, claim, demand, or
18 legal proceeding, whether in litigation or otherwise. In counties
19 having a population of two hundred thousand inhabitants or more,
20 the county attorney may appoint deputy county attorneys to serve
21 without pay and when so appointed shall not be subject to the
22 provisions of this section.

23 (b) In counties with sixty thousand or more but less than
24 one hundred thousand inhabitants, the county attorney shall receive
25 a salary of not less than twenty-seven thousand five hundred
26 dollars per annum.

27 (c) In counties with one hundred thousand or more but
28 less than two hundred thousand inhabitants, the county attorney

1 shall receive a salary of not less than thirty-two thousand five
2 hundred dollars per annum. The county attorneys of such counties
3 shall not engage in private practice. The deputy county attorneys
4 in such counties may engage in private practice.

5 (2) In any county not specifically provided for under
6 subsection (1) of this section, the county board may adopt a
7 resolution not less than sixty days prior to the deadline for
8 filing for the office of county attorney providing that the county
9 attorney shall devote his or her full time to the legal work of the
10 county and shall not engage in the private practice of law directly
11 or indirectly and shall not directly or indirectly refer any legal
12 matter or civil ~~or criminal~~ litigation to any lawyer nor directly
13 or indirectly recommend or suggest to any person the employment of
14 any particular lawyer or lawyers to counsel in, conduct, defend, or
15 prosecute any action, case, claim, demand, or legal proceeding,
16 whether in litigation or otherwise. The full-time county attorney
17 shall receive an annual salary, to be set by the county board, to
18 be paid periodically out of the general fund the same as the
19 salaries of other employees, except that in a county having a
20 population of twenty thousand inhabitants or more or when two or
21 more contiguous counties jointly employ one county attorney and
22 have a combined population of twenty thousand inhabitants or more,
23 the county attorney for the county or counties shall receive an
24 annual salary of not less than twenty thousand dollars.

25 Sec. 56. Section 23-1212, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 23-1212. For purposes of sections 23-1212 to 23-1222,
28 unless the context otherwise requires:

1 (1) County attorney shall mean the county attorney of a
2 county in this state whether such position is elective or
3 appointive and regardless of whether such position is full time or
4 part time;

5 (2) Deputy county attorney shall mean an attorney
6 employed by a county in this state for the purpose of assisting the
7 county attorney in carrying out his or her responsibilities
8 regardless of whether such position is full time or part time;

9 (3) Council shall mean the Nebraska County Attorney
10 Standards Advisory Council;

11 (4) Attorney General shall mean the Nebraska Attorney
12 General; and

13 (5) ~~Commission shall mean the Nebraska Commission on Law~~
14 ~~Enforcement and Criminal Justice; and~~

15 ~~(6) Continuing legal education, including instruction~~
16 ~~providing a working knowledge of electronic speed measurement~~
17 ~~principles and instruction on the investigation and prosecution of~~
18 ~~crimes against children, shall mean that type of legal education,~~
19 ~~including instruction providing a working knowledge of electronic~~
20 ~~speed measurement principles and instruction on the investigation~~
21 ~~and prosecution of crimes against children, which has application~~
22 ~~to and seeks to maintain and improve the skills of the county~~
23 ~~attorney and deputy county attorney in carrying out the~~
24 ~~responsibilities of his or her office or position.~~

25 Sec. 57. Section 23-1216, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 23-1216. The council shall be responsible for
28 establishing the annual number of hours of continuing legal

1 education, including instruction providing a working knowledge of
2 electronic speed measurement principles and instruction on the
3 investigation and prosecution of crimes against children. The
4 council and shall periodically review the required number of hours
5 of continuing legal education. ~~7 including instruction providing a~~
6 ~~working knowledge of electronic speed measurement principles and~~
7 ~~instruction on the investigation and prosecution of crimes against~~
8 ~~children.~~ The council shall develop educational criteria, formats,
9 and program objectives to be used in the delivery of continuing
10 legal education. ~~7 including instruction providing a working~~
11 ~~knowledge of electronic speed measurement principles and~~
12 ~~instruction on the investigation and prosecution of crimes against~~
13 ~~children, for county attorneys and deputy county attorneys, except~~
14 ~~that the annual number of hours spent in continuing legal~~
15 ~~education, including instruction providing a working knowledge of~~
16 ~~electronic speed measurement principles and instruction on the~~
17 ~~investigation and prosecution of crimes against children, shall not~~
18 ~~exceed thirty-six contact hours.~~

19 Sec. 58. Section 23-1217, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 23-1217. Every county attorney and deputy county
22 attorney in this state shall annually undertake and complete the
23 required hours of continuing legal education. ~~7 including~~
24 ~~instruction providing a working knowledge of electronic speed~~
25 ~~measurement principles and instruction on the investigation and~~
26 ~~prosecution of crimes against children, as prescribed by the~~
27 ~~council under section 23-1216.~~ Failure on the part of any county
28 attorney or deputy county attorney to complete the required number

1 of hours of continuing legal education, including instruction
2 providing a working knowledge of electronic speed measurement
3 principles and instruction on the investigation and prosecution of
4 crimes against children, may subject such county attorney or deputy
5 county attorney to removal from office under section 23-1220.

6 Sec. 59. Section 23-1218, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 23-1218. The Nebraska Commission on Law Enforcement and
9 Criminal Justice, after consultation with the council, shall:

10 (1) Establish curricula for the implementation of a
11 mandatory continuing legal education program, including instruction
12 providing a working knowledge of electronic speed measurement
13 principles and instruction on the investigation and prosecution of
14 crimes against children, for county attorneys and deputy county
15 attorneys;

16 (2) Administer all programs of continuing legal
17 education, including instruction providing a working knowledge of
18 electronic speed measurement principles and instruction on the
19 investigation and prosecution of crimes against children, for
20 county attorneys and deputy county attorneys required under
21 sections 23-1212 to 23-1222;

22 (3) Evaluate the effectiveness of programs of continuing
23 legal education, including instruction providing a working
24 knowledge of electronic speed measurement principles and
25 instruction on the investigation and prosecution of crimes against
26 children, required under sections 23-1212 to 23-1222;

27 (4) Certify the number of hours of continuing legal
28 education, including instruction providing a working knowledge of

1 ~~electronic speed measurement principles and instruction on the~~
2 ~~investigation and prosecution of crimes against children,~~ completed
3 by a county attorney and deputy county attorney as required under
4 sections 23-1212 to 23-1222 and maintain all records relating
5 thereto;

6 (5) Report to the Attorney General the names of all
7 county attorneys and deputy county attorneys who have failed to
8 complete the number of hours of continuing legal education,
9 ~~including instruction providing a working knowledge of electronic~~
10 ~~speed measurement principles and instruction on the investigation~~
11 ~~and prosecution of crimes against children,~~ as required under
12 section 23-1217;

13 (6) Establish tuition and fees for all programs of
14 continuing legal education, ~~including instruction providing a~~
15 ~~working knowledge of electronic speed measurement principles and~~
16 ~~instruction on the investigation and prosecution of crimes against~~
17 ~~children,~~ as required under sections 23-1212 to 23-1222;

18 (7) Adopt and promulgate necessary rules and regulations
19 for the effective delivery of all programs of continuing legal
20 education, ~~including instruction providing a working knowledge of~~
21 ~~electronic speed measurement principles and instruction on the~~
22 ~~investigation and prosecution of crimes against children,~~ for
23 county attorneys and deputy county attorneys as required under
24 sections 23-1212 to 23-1222;

25 (8) Do all things necessary to carry out the purpose of
26 training county attorneys and deputy county attorneys as required
27 by sections 23-1212 to 23-1222; and

28 (9) Receive and distribute appropriated funds to the

1 Nebraska County Attorneys Association to develop, administer, and
2 conduct continuing legal education seminars, prepare and publish
3 trial manuals and other publications, and take any other measure
4 that will enhance the investigation and prosecution of crime in
5 ~~this state~~ improve the effectiveness of the county attorneys in
6 this state.

7 Sec. 60. Section 23-1219, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 23-1219. When it comes to the attention of the
10 ~~commission council~~ that a county attorney or deputy county attorney
11 has not fulfilled the required number of hours of annual mandatory
12 continuing legal education, ~~including instruction providing a~~
13 ~~working knowledge of electronic speed measurement principles and~~
14 ~~instruction on the investigation and prosecution of crimes against~~
15 ~~children,~~ ~~required by section 23-1217,~~ it shall investigate such
16 failure to comply in order to determine whether or not such failure
17 was willful or negligent. If the ~~commission council~~ determines
18 that the failure to comply was willful or negligent, it shall refer
19 the matter to the Attorney General for action under section
20 23-1220. If the ~~commission council~~ determines that the failure to
21 comply was not willful or negligent, it shall permit the county
22 attorney or deputy county attorney to make up all outstanding hours
23 of continuing legal education. ~~7 including instruction providing a~~
24 ~~working knowledge of electronic speed measurement principles and~~
25 ~~instruction on the investigation and prosecution of crimes against~~
26 ~~children.~~ In doing so, the ~~commission council~~ shall establish a
27 deadline by which such hours must be undertaken and completed. In
28 making up any outstanding hours of continuing legal education,

1 including instruction providing a working knowledge of electronic
2 speed measurement principles and instruction on the investigation
3 and prosecution of crimes against children under this section, such
4 hours shall be in addition to those hours which are annually
5 required under section 23-1217.

6 Sec. 61. Section 23-1220, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 23-1220. Upon being advised by the ~~commission~~ council of
9 a failure on the part of a county attorney or deputy county
10 attorney to complete the number of hours of continuing legal
11 education, including instruction providing a working knowledge of
12 electronic speed measurement principles and instruction on the
13 investigation and prosecution of crimes against children, required
14 by section 23-1217, the Attorney General shall commence a civil
15 action in the district court of the county in which the county
16 attorney holds office, or in the case of a deputy county attorney
17 in the district court of the county in which he or she is employed,
18 seeking his or her removal from office or employment. Such action
19 shall be brought in the name of the county. Such action shall be
20 tried in the same manner as other civil actions under Chapter 25,
21 except that such action shall be tried exclusively to the court
22 without a jury.

23 Sec. 62. Section 23-1222, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 23-1222. Tuition, fees, and other expenses incurred by a
26 county attorney or deputy county attorney in fulfilling the
27 requirements of section 23-1217 shall be paid by the county.
28 Tuition, fees, and other expenses incurred by all other persons who

1 may attend such programs of continuing legal education, ~~including~~
2 ~~instruction providing a working knowledge of electronic speed~~
3 ~~measurement principles and instruction on the investigation and~~
4 ~~prosecution of crimes against children,~~ shall be the
5 responsibility of the person attending.

6 Sec. 63. Section 23-1223, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 23-1223. (1) In all cases when the county attorney has
9 engaged in the courts of another county in any suit, application,
10 or motion, ~~either civil or criminal,~~ that is civil in nature in
11 which the state or county is a party interested, which has been
12 transferred by change of venue from his or her county to another
13 county, he or she shall be allowed his or her reasonable and
14 necessary traveling and hotel expenses while so engaged, in
15 addition to his or her regular salary.

16 (2) The expenses referred to in subsection (1) of this
17 section shall be paid to him or her upon the presentation of a bill
18 for the same, accompanied by proper vouchers, to the county board
19 of his or her county, in like manner as provided in all other cases
20 of claims against the county. In computing reasonable and
21 necessary traveling expenses, the county attorney shall be allowed
22 mileage at the rate allowed by section 81-1176, but if travel by
23 rail or bus is economical and practical and if mileage expense may
24 be reduced thereby, he or she shall be allowed only the actual cost
25 of rail or bus transportation.

26 Sec. 64. This act becomes operative on January 1, 2000.

27 Sec. 65. Original sections 23-1201, 23-1202, 23-1206,
28 23-1206.01, 23-1212, 23-1216, 23-1217, 23-1218, 23-1219, 23-1220,

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1 23-1222, and 23-1223, Reissue Revised Statutes of Nebraska, are
2 repealed.